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AS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/205,945 12/04/98 BOGEN

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021005 IM22/0829
HAMILTON BROOK SMITH AND REYNOLDS, P.C.
TWO MILITIA DR
LEXINGTON MA 02421-4799

EXAMINER

WALLENHORST, M

ART UNIT

PAPER NUMBER

1743

DATE MAILED: 08/29/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory ActionApplication No.
09/205,945Applicant(s)
Bogen et al.Examiner
WallenhorstGroup Art Unit
1313**THE PERIOD FOR RESPONSE:** [check only a) or b)]

- a) ☐ expires _____ months from the mailing date of the final rejection.
- b) ☒ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on _____ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on Aug 23, 2000 has been considered with the following effect, but is **NOT** deemed to place the application in condition for allowance:

☒ The proposed amendment(s):

- ☒ will be entered upon filing of a Notice of Appeal and an Appeal Brief.

☐ will not be entered because:

- ☐ they raise new issues that would require further consideration and/or search. (See note below).
- ☐ they raise the issue of new matter. (See note below).
- ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: _____

- ☒ Applicant's response has overcome the following ^{objection(s)} ~~rejection(s)~~:
- The objections to the abstract and disclosure in the final rejection (Paper no. 6) are withdrawn.

- ☐ Newly proposed or amended claims _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.
- ☒ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Applicants' arguments concerning the double patenting rejection are not persuasive since terminal disclaimers are not only required for patent term reasons, but also to prevent possible harassment by multiple assignees. See below.
- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
- ☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):
- Claims allowed: none
- Claims objected to: none
- Claims rejected: 1-9 and 14-19

- ☐ The proposed drawing correction filed on _____ ☐ has ☐ has not been approved by the Examiner.

- ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

- ☒ Other Terminal disclaimers must include a provision that the patent shall be unenforceable if it ceases to be commonly owned with the other application or patent. Therefore, a terminal disclaimer in this application is required. Note 37 CFR 1.321(c) and MPEP section 804.02.

Maureen M. Wallenhorst
MAUREEN M. WALLENHORST
PRIMARY EXAMINER
GROUP 1700